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In re Application of VROUENRAETS et al :  
U.S. Application No.: 09/980,088 :  
Int. Application No.: PCT/GB00/01215 : DECISION  
Int. Filing Date: 30 March 2000 :  
Attorney Docket No.: 1626-3 :  
For: PHOTODYNAMIC THERAPY COMPOUNDS :

This is in response to applicant's "Renewed Petition Under 37 CFR 1.497(d)" filed 24 March 2003.

### **BACKGROUND**

On 30 March 2000, applicant filed international application PCT/GB00/01215. A copy of the international application was communicated to the USPTO from the International Bureau on 11 October 2001. The twenty-month period for paying the basic national fee in the United States expired at midnight on 30 November 2001.

On 30 November 2001, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 24 January 2002, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 23 August 2002, applicant filed a petition under 37 CFR 1.497(d) along with an executed declaration.

On 15 November 2002, this Office mailed a decision dismissing the 23 August 2002 petition.

On 24 March 2003, applicant filed the present renewed petition along with an executed declaration.

### DISCUSSION

37 CFR 1.497(d) (effective 07 November 2000) states,

If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Applicant has previously satisfied items (1) and (2) above.

With regard to item (3) above, the renewed petition states that the application has not been assigned.

Therefore, all of the requirements of 37 CFR 1.497(d) have been met.

Applicant is advised that the declaration filed 24 March 2003 is acceptable with regard to inventor Augustinus Van Dongen. However, declarations properly executed by inventors Martinus Vrouenraets and Gerardus Viisser have not been provided. Applicant is reminded that the declaration filed 23 August 2002 is improper because the last name of the third listed inventor does not match that shown on the international application.

### CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is GRANTED.

The application is being forwarded to the DO/EO/US for processing in accordance with this decision including preparation and mailing of a Notification of a Defective Response (Form PCT/DO/EO/916) which should indicate that the declaration filed 23 August 2002 is improper because it does not correctly indicate the last name of the third inventor.



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